

Celebrating Cayman and its industry leaders - Q&A with James Bergstrom

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James Bergstrom is the architect of Ogier's renowned funds practice and recognised as one of the islands' leading funds specialists. Clients say James is 'a phenomenal lawyer'. Here he discusses how the industry has changed.

How did your career in Cayman begin?

I joined in 1991, having qualified as a Barrister in England. That was kind of a turning point for the growth of the industry – we had the BCCI case going on after the collapse of the bank, and as a new firm we were able to pick up a number of instructions because we had no conflict of interest issues. I recall the number of lawyers admitted then being around 160, now it's over 600.

In 1993 the Mutual Funds Law was enacted, and that was obviously the real start of the funds industry in Cayman, and also the start of the legal and regulatory framework for funds. The legislative pace kept at a moderate level until about 2006 but has gathered pace steadily since with the last few years seeing an unprecedented level of new laws, regulations and guidelines.

What has been the big change in the people shaping the industry?

When I started, the lawyers involved in the offshore structuring work were predominantly ex-pats; very few Caymanians were involved. That has now changed. A combination of a new generation of aspiring lawyers and better higher education opportunities, including scholarships from local law firms (including Ogier), has improved the quality of the Caymanian pool and the quality of the training programmes in the main law firms – such as our own Articled Clerks programme – has also improved.

Our team is now 52% Caymanian – ten of our 13 partners are either Caymanian or have RERC.

How does recruitment and retention of employees work now?

Go back 25 years and people were always about moving from associate up to partner, whereas these days people are much more lifestyle focused.

Jody Powery-Gilbert is an excellent example – she qualified with the Attorney General's Chambers before joining us ten years ago. She is a very capable person and an outstanding lawyer, but she has made a choice to work reduced hours, and to take a Counsel position so that she can have more time with her family.

We find that potential recruits are interested in questions beyond earnings and progression to partnership – they're interested in vacation policy, in how we support flexible working, and in our CSR activity and how the firm supports team members with fund-raising and days off to volunteer with local charities and causes.

How has the work of a funds lawyer changed?

The increase in the level of regulation has meant much more work is required to keep updated with both Cayman laws, regulations and guidance as well as laws and regulations outside of Cayman that impact Cayman funds. This will continue so I suspect firms will need to make greater use of subject matter experts and involve a number of teams in providing advice rather than relying on just one partner and an associate. Additionally, the tools now available to firms such as automated document assembly programs, research search engines and the use of process mapping in larger transactions to provide different approaches to billing mean that a lawyer's training will need to move well beyond knowledge of the law.

Globalisation has also impacted Cayman firms. Ogier has lawyers practising Cayman law in Hong Kong and Europe because we are not just competing with other Cayman law firms – we are also competing with other jurisdictions such as Bermuda, Delaware and Ireland. The only way to compete in markets with an unfriendly time variance to Cayman is by putting teams in those markets. One of the things that struck me when I was living and working for Ogier in Hong Kong was the extent to which the Cayman jurisdiction was used in Asia. Cayman remains the default for many fund structures for Asian based promoters and clients and is also used extensively for listings – you only have to look at the number of Cayman vehicles listed on the Hong Kong and Taiwan stock exchanges.

Active in the Cayman Islands for more than 25 years, our focus is on investment funds – hedge and private equity – as well as corporate and commercial, banking and finance transactions,

high value corporate matters, restructuring and insolvency, all aspects of trust and private wealth matters as well as commercial and trust dispute resolution.

About Ogier

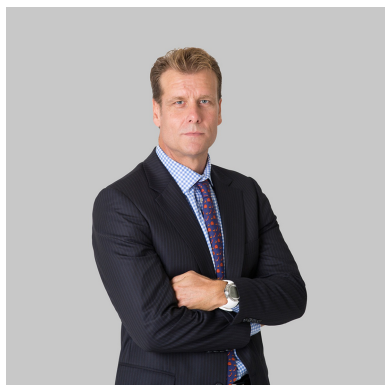
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Meet the Author



James Bergstrom

Partner

Cayman Islands

E: james.bergstrom@ogier.com

T: [+1 345 815 1855](tel:+13458151855)